

REMARKS/ARGUMENTS

Before addressing the Final Office Action, Applicant's representative would like to thank the Examiner for participating in a telephonic interview conducted on December 1, 2008. A summary of the substance can be found in the interview summary dated December 1, 2008. The substance of the interview has also been incorporated in the remarks below.

By this Amendment, Applicant proposes amending claims 20-24, 31-36, 43-48, and 55 and adding new claims 56-63. No new matter will be introduced by this Amendment. For example, support for these amendments can be found in Figs. 1-4 and 6 and related text. Upon entry of this Amendment, claims 20-63 will remain pending.

In the Final Office Action (FOA), the Examiner maintained the rejection of claims 20-55 on the grounds of non-statutory obviousness-type double patenting. The Examiner pointed out that a terminal disclaimer was filed, but the appropriate fees were not paid. In response, Applicant submits that the appropriate fees were paid at the time of filing the terminal disclaimer. To support this, Applicant includes with this response a copy of the fee worksheet and receipt showing payment of the terminal disclaimer fee (fee code 1814 corresponding to the statutory disclaimer fee) by Applicant's Deposit Account. Accordingly, Applicant requests that the Examiner withdraw the rejection of claims 20-55 on the grounds of non-statutory obviousness-type double patenting.

Additionally, in the FOA, the Examiner rejected claims 20-55 under 35 U.S.C. § 103(a) as being unpatentable over Autermann, U.S. Patent No. 6,122,580, (*Autermann*) and Murphy, U.S. Patent No. 6,232,874, (*Murphy*) in view of Tamir et al., U.S. Publication No. 2004/0220807, (*Tamir*). In response, Applicant submits that the applied documents fail to render

obvious claims 20-55. In particular, the combination of *Autermann*, *Murphy*, and *Tamir* fails to teach or suggest all the elements of claims 20-55, and the missing elements would not have been obvious to one of ordinary skill in the art.

Claim 20, as amended, is directed to an apparatus at a vehicle location for validating a vehicle operator to operate selected functions of a vehicle comprising, *inter alia*, “a transceiver for transmitting ... vehicle operator identification information to a remote location for validation and receiving from said remote location **a reply message specifying which of said selected functions the operator is validated to operate and specifying at least one action to be taken to indicate the validation to the vehicle operator; and means for enabling said selected functions and the at least one action specified by said reply message.**” (emphasis added.)

Claims 32 and 44 recite similar elements, and claims 23-31, 33-43, and 45-55 depend from either claim 20, 32, or 44.

In the FOA, the Examiner admitted that *Autermann* fails to teach or suggest receiving a reply message specifying which of the selected function the operator is validated to use and means for enabling the selected functions. (FOA at p. 5.) Moreover, *Autermann* fails to teach or suggest at least the reply message specifying at least one action to be taken to indicate the validation to the vehicle operator. *Autermann* merely discloses sending, from a central processor ZP, a enabling signal FS (signal to the local processor that the user is authorized) and a personal data set PSx. *Autermann*, col. 4, ll. 55-67. As such, *Autermann* fails to teach or suggest all the elements of the claims.

Additionally, *Murphy* fails to cure the deficiencies of *Autermann*. *Murphy* is directed to restricting the use of a vehicle by certain users. *Murphy*, Abstract. In particular, an apparatus

170, located at the vehicle, determines the restricted use based on biometric indicia from users. *Murphy*, col. 5, ll. 16-32. *Murphy* discloses that the apparatus 107 can received updated restricted use data from a remote facility. *Murphy*, col. 14, ll. 25-47. The apparatus 170, however, does not transmit the biometric indicia to the remote facility for validation and receive a message back indicating the user restrictions or any action to be taken in response to validating the user. Thus, *Murphy* fails to teach or suggest at least “receiving from said remote location a **reply message specifying which of said selected functions the operator is validated to operate and specifying at least one action to be taken to indicate the validation to the vehicle operator**; and means for enabling said selected functions and the at least one action specified by said reply message,” as recited in the claims.

Likewise, *Tamir* fails to cure the deficiencies of *Autermann* and *Murphy*. *Tamir* is directed to a method for verifying and identifying users by audio or ultrasonic signals in a computer system. *Tamir*, Abstract. *Tamir* does not teach or suggest at least “receiving from said remote location a **reply message specifying which of said selected functions the operator is validated to operate and specifying at least one action to be taken to indicate the validation to the vehicle operator**; and means for enabling said selected functions and the at least one action specified by said reply message,” as recited in the claims.

As such, the combination of *Autermann*, *Murphy*, and *Tamir* fails to teach or suggest all the claim elements. And, one skilled in the art would not be motivated to bridge the gap between the applied documents and the claims. M.P.E.P. § 2141(III), p. 2100-118 (Rev. 6, Sept. 2007). Therefore, the combination of *Autermann*, *Murphy*, and *Tamir* fails to render obvious claims 20-55. Accordingly, the rejection of claims 20-55 under section 103(a) should be withdrawn.

Additionally, Applicant submits that new claims 56-63 are patentable over the documents applied in the FOA. Claims 56-61 depend from either claim 20, 32, or 44. For at least the reason mentioned above, claims 56-61 are patentable over the applied documents.

New claim 62 is directed to apparatus for validating, at a remote location, a vehicle operator to operate selected functions of a vehicle, comprising “a transceiver configured to receive vehicle operator identification information and configured to transmit a reply message to the vehicle; and a processor configured to validate the operator identification information, configured to generate the reply message specifying which of said selected functions the operator is validated to operate, and configured to generate a notification of the validation and to transmit the notification to a third party.” New claim 63 recites similar elements. For at least the reason mentioned above, claims 62 and 63 are patentable over the applied documents. Additionally, the applied documents fail to teach or suggest at least “a processor ... configured to generate a notification of the validation and to transmit the notification to a third party.” For at least this reason, claims 62 and 63 are patentable over the applied documents.

CONCLUSION

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing the claims in condition for allowance. Applicant submits that the proposed amendments of claims 20-24, 31-36, 43-48, and 55 and addition of new claims 56-63 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

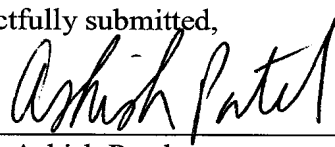
Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

Applicant believes that the present application is now in condition for allowance. Such allowance is respectfully solicited.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 17-0026.

Respectfully submitted,

By: _____



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Dated: 12/11/2008

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Enclosure: Fee worksheet